

1IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 2358 OF 2022

Dr. Pramod Wasudeo Rakshamwar,
Aged about 62 years,
Occ. : Retired Government Servant,
R/o.492, Nehru Nagar Nandanwan Road,
Nagpur.

....PETITIONER

...VERSUS...

1. The State of Maharashtra,
Through Chief Secretary,
Government of Maharashtra,
Mantralaya, Mumbai -32.
2. The State of Maharashtra,
Through Principal Secretary,
Public Health Department,
GT Hospital Building Premises,
10th Floor, Mantralaya, Mumbai.
3. The Commissioner,
Health Services, Government of
Maharashtra, Aarogya Bhavan
St. George Hospital Compound Nest CST,
Mumbai.
4. The Chief Executive Officer,
Zilla Parishad, Civil Lines, Nagpur.

...RESPONDENTS

Mr. Akshay Sudame, Advocate for Petitioner.
Ms K. Joshi, Addl.G.P for Respondents 1 to 3/State.
Mr. Sheikh Majid, Advocate for Respondent 4.

CORAM: **ROHIT B. DEO AND MRS. VRUSHALI V. JOSHI, JJ.**
DATE: **29.03.2023**

JUDGMENT : (PER ROHIT B. DEO, J.)

1. Heard. **Rule.** Rule made returnable forthwith by consent of the learned Counsel for the parties.

2. The challenge in the petition is to the judgment dated 20.01.2022 rendered by the Maharashtra Administrative Tribunal (MAT) in Original Application 264/2020.

3. The other prayer in the petition is that the orders/Government Resolution dated 10.10.2019 and 17.02.2020 be quashed to the extent the period from 01.06.2018 till 11.09.2018 and 11.09.2018 till 21.02.2019 is treated as extraordinary leave without pay. The petitioner prays that the said period be considered as compulsory waiting period and salary be released along with interest @ 12% per annum.

4. While issuing notice vide order dated 09.01.2023 we noted the submission of the learned Counsel Mr. Sudame that the petitioner is restricting the claim to salary for the period from 01.06.2018 to 11.09.2018.

5. It would be necessary to briefly note the checkered history of the litigation.

6. The petitioner preferred Original Application 408/2018 which the MAT decided vide judgment dated 22.02.2019.

7. The contention of the petitioner was that as Medical Officer Group-A he was entitled to extension of two years, and was due to superannuate on 30.04.2019, and he was illegally relieved from duty on 31.05.2018 without considering the extension of two years to which he was entitled.

8. The MAT noted the submission that the department realized the mistake and vide order dated 11.09.2018, the petitioner was continued in service. The MAT notes that vide order dated 31.05.2018, which is contemporaneously passed with the order of superannuation, albeit erroneous order of superannuation, the petitioner was purportedly transferred to Primary Health Center, Raipur, District Nagpur. Observing thus, MAT noted that the applicant resumed the duty on 21.02.2019 and what survives is the question of regularization of the period from 11.09.2018 till 21.02.2019. The MAT directed that the period from 11.09.2018 till 21.02.2019 be regularized and continuity in service be granted.

9. One glaring aspect is that while the petitioner is making a hue and cry before us as regards the denial of salary for the period 01.06.2018 to 11.09.2018, the said claim does not appear to have been pressed before the MAT in Original Application 408/2018. The judgment/order dated 22.02.2019 in Original Application 408/2018 does not make any reference to the period 01.06.2018 to 11.09.2018 and rather the relief of regularization is restricted to the period 11.09.2018 till 21.02.2019.

10. This is not the end of the matter. The petitioner preferred Original Application 600/2019. Even in the subsequent original application the petitioner did not make any grievance as regards the period 01.06.2018 to 11.09.2018. We note from the order dated 03.10.2019 in Original Application 600/2019 that the limited grievance was that the order in the earlier original application i.e. Original Application 408/2018 is not complied with. This original application was disposed of with the observations that the petitioner is entitled to file Contempt Proceeding.

The petitioner accordingly preferred Contempt Petition 43/2019 in which the following order was passed.

“Heard Shri G.G. Bade, ld. counsel for the applicant and Shri S.A. Sainis, ld. P. O. for the respondents.

2. We have perused the order dated 17/02/2020. As per this order, direction is issued by the Government to delete the last three lines from the order dated 10/10/2019 which says that the period from 11th September, 2018 till 21st February, 2019 shall not be considered as a service period including the pensionable service and now that portion is deleted, therefore, there remains no substance in the Contempt Petition. Hence, the Contempt Petition stands disposed of. No order as to costs.”

11. Undeterred, the petitioner preferred Original Application 264/2020 which is decided by the order impugned. It is in this original application that for the first time a grievance is made as regards the entitlement of the salary for the period 01.06.2018 to 11.09.2018 along with the period 11.09.2018 to 21.02.2019.

12. The grievance of the petitioner, assuming that the grievance has any merit ought to have been agitated in Original Application 408/2018, which the petitioner evidently chose not to do. The petitioner accepted the order and rather in a way benefited. The petitioner did approach the Courts several times thereafter. The petitioner claimed non-compliance of the order, he preferred another original application and further contempt

petition. During all these proceedings, no grievance was made as regards the period 01.06.2018 to 11.09.2018. As we have already noted, it is for the first time that such grievance was made in Original Application 264/2020.

13. We find from the judgment impugned, that the submission which is canvassed by Mr. Sudame, and which pertains to the period 01.06.2018 to 11.09.2018 does not appear to have been pressed. There is no reference whatsoever in the judgment and order impugned to such submission. It is not even the case of the petitioner that such submission was canvassed and yet the MAT did not record the submission and refused to consider the same. In this view of the matter, and considering that the petitioner did not seek review nor did he make any attempt to invite the attention of the MAT that some submission was canvassed and is not considered, we find it safe to proceed on the premise that the submission that the petitioner is entitled to the salary for the period 01.06.2018 to 11.09.2018 was not pressed before the MAT.

14. In any view of the matter, the petition is absolutely meritless and if we may say so, clearly vexatious. Some perceived grievance, which ought to have been agitated and prosecuted in

the first of the several litigations which the petitioner ventured to institute is now brought before us notwithstanding that the grievance was not pressed, not only at the first available opportunity, in the proceedings from which the judgment and order impugned arises.

15. We are, therefore, inclined to dismiss the petition with costs of Rs.2000/- (Rs. Two Thousand Only) which shall be deposited by the petitioner with the High Court Legal Services Sub Committee, Nagpur.

16. The petition is dismissed. Rule is discharged.

(MRS. VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)

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